



~~March 20, 2007 CPC~~  
~~April 17, 2007 CPC~~  
June 19, 2007 CPC

STAFF'S  
REQUEST ANALYSIS  
AND  
RECOMMENDATION

05SN0221  
(Amended)

Piedmont Venture, LLC

Matoaca Magisterial District  
Grange Hall Elementary; Swift Creek Middle; and Cosby High Schools Attendance Zones  
South line of Genito Road

REQUEST: (AMENDED) Rezoning from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements.

PROPOSED LAND USE:

A mixture of residential uses to include single family and cluster homes along with supporting recreational uses is proposed. The applicant has agreed to limit development to a density of 2.0 dwelling units per acre. Yielding approximately 328 dwelling units. (Proffered Condition 6)

RECOMMENDATION

Recommend approval subject to addressing the transportation concerns stated herein. This recommendation is made for the following reasons:

- A. While the proposed zoning and land uses conform to the Upper Swift Creek Plan which suggests the property is appropriate for single family residential use of 2.0 units per acre or less, the application fails to address the transportation impacts.
- B. The proffered conditions adequately address the impacts of this development on necessary capital facilities, as outlined in the Zoning Ordinance and Comprehensive Plan. Specifically, the needs for roads, schools, parks, libraries and fire stations is identified in the Public Facilities Plan, the Thoroughfare Plan and the Capital Improvement Program, and the impact of this development is

discussed herein. The proffered conditions mitigate the impact on capital facilities, thereby insuring adequate service levels are maintained and protecting the health, safety and welfare of County citizens.

(NOTE: CONDITIONS MAY BE IMPOSED OR THE PROPERTY OWNER(S) MAY PROFFER CONDITIONS.)

#### PROFFERED CONDITIONS

The property owner and applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property under consideration will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owner and applicant, the proffers shall immediately be null and void and of no further force or effect.

1. Master Plan. The Textual Statement dated February 12, 2007 shall be considered to be the Master Plan. (P)
2. Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
3. Utilities. The public water and wastewater systems shall be utilized. (U)
4. Cash Proffers. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, prior to the issuance of a building permit, for infrastructure improvements within the service district for the Property:
  - a. \$15,600.00 per dwelling unit, if paid prior to July 1, 2007, or the amount approved by the Board of Supervisors, not to exceed \$15,600.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007.
  - b. Provided, however, that if any building permits issued on the Property are for senior housing, as defined in the proffer on age-restriction, the applicant, sub-divider, or assignee(s) shall pay \$10,269.00 per dwelling unit if paid prior to July 1, 2007, or the amount approved by the Board of Supervisors, not to exceed \$10,269.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007. At the time of payment, the \$10,269.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for

parks and recreation, \$348.00 for library facilities, \$8,915 for roads, and \$404 for fire stations. Payments in excess of \$10,269.00 shall be prorated as set forth above.

- c. If, upon the mutual agreement of the Transportation Department and the developer, the developer provides road improvements (the “Improvements”), other than those road improvements identified in Proffered Condition 9, then the transportation component in this Proffered Condition shall be reduced by an amount not to exceed the cost to construct the Improvements as determined by the Transportation Department. Thereafter, the developer shall pay the balance of the transportation component as set forth in this Proffered Condition. For the purposes of this Proffered Condition, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) (“Work”). Before any Work is performed, the applicant shall receive prior written approval by the Transportation Department for any credit.

Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.

Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the county. (B&M and T)

5. Age Restriction. Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Fair Housing Act, and such other applicable federal, state or local legal requirements, dwelling units designated as age-restricted shall be restricted to “housing for older persons” as defined in the Virginia Fair Housing Law and no persons under 19 years of age shall reside therein. Any lots for age-restricted dwelling units shall be grouped together on a particular portion of the Property and shall not be scattered among other residential units. At the time of recordation of a subdivision plat or the approval of any site plan, the lots shall be noted as age-restricted. Any site plan for age-restricted dwelling units shall also note the restriction. (P)
6. Density. The total number of residential dwelling units on the Property shall not exceed two residential units per acre. (P)
7. Right-of-Way Dedication - Powhite. Prior to any site plan approval, in conjunction with recordation of the initial subdivision plat or within sixty (60) days from a written request by the Transportation Department once the construction of Powhite Parkway Extended has been committed as determined by the Transportation Department, whichever occurs first, a two hundred (200) foot wide limited access right-of-way for Powhite Parkway Extended through the

southern part of the Property as substantially shown on Exhibit A prepared by E.D. Lewis & Associates P.C. (the “Right-of-Way”), or such other location mutually acceptable to the developer and the Transportation Department, shall be dedicated, free and unrestricted except as set forth in this Proffer, to and for the benefit of Chesterfield County. The exact location of the Right-of-Way shall be approved by the Transportation Department. There shall be no requirement to dedicate the Right-of-Way if, prior to recordation of the initial subdivision plat or site plan approval, whichever occurs first, the Board of Supervisors approves an alternative location to the Right-of-Way for the Powhite Parkway Extended, and if already dedicated, upon written request by the developer, such Right-of-Way shall be conveyed back to the developer. (T)

8. Right-of-Way Dedication – Genito. Prior to any site plan approval, in conjunction with recordation of the initial subdivision plat, or within sixty (60) days from a written request by the Transportation Department, whichever occurs first, forty-five (45) feet of right-of-way along the southern side of Genito Road, measured from the centerline of that part of Genito Road immediately adjacent to the Property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
9. Road Improvements. The developer shall provide the following improvements with initial development of the Property:
  - a. Construction of additional pavement along Genito Road at the approved public road to provide left and right turn lanes, if warranted, based on Transportation Department standards;
  - b. Widening/improving the south side of Genito Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder and overlaying the full width of the road with one and one half (1.5) inches of compacted bituminous asphalt concrete, with modifications approved by the Transportation Department, for the entire Property frontage; and
  - c. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the developer is unable to acquire the “off-site” right-of-way that is necessary for the road improvements described in this Proffered Condition, the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the “off-site” right-of-way, the developer shall be relieved of the obligation to acquire the “off-site” right-of-way and shall provide the road improvements within available right-of-way as determined by the Transportation Department. (T)

## GENERAL INFORMATION

### Location:

South line of Genito Road, east of Mount Herman Road. Tax ID 705-687-3536.

### Existing Zoning:

A

### Size:

164.2 acres

### Existing Land Use:

Vacant

### Adjacent Zoning and Land Use:

North, South and West – A; Public/semi-public, single family residential or vacant  
East - A and R-12; Single family residential or vacant

## UTILITIES

### Public Water System:

There is an existing sixteen (16) inch water line extending along the north side of Genito Road that terminates 700 feet west of Weatherbury Place, approximately 4,500 feet east of this site. Use of public water to serve this site is recommended by the Upper Swift Creek Are Land Use Plan. Use of public water is intended and has been proffered (Proffered Condition 3). Per Utilities Department Design Specifications (DS-21), wherever possible, two (2) supply points shall be provided for subdivisions containing more than twenty-five (25) lots.

Previous to this application, zoning was granted to Theodore Balsamo for a single family residential subdivision zoning R-12 (Case 04SN0205, approved August 25, 2004) requiring the use of public water to serve their development (Proffered Condition 1). The applicant is encouraged to work with the developer of the Balsamo tract and the intervening Cloverhill Athletic Complex (Case 95PD0128, approved September 20, 1994) to expedite the extension of the public water system.

### Public Wastewater System:

A twenty-four (24) inch wastewater truck line extends along a portion of Otterdale Branch and terminates adjacent to the western boundary of Summer Lake Subdivision, Section 1, approximately 4,800 feet east of this site. Use of the public wastewater system to serve this site is recommended by the Upper Swift Creek Area Land Use Plan. Use of the public wastewater system is intended and has been proffered. (Proffered Condition 3)

Previous to this application, zoning was granted to Theodore Balsamo for a single family residential subdivision zoning R-12 (Case 04SN0205, approved August 25, 2004) requiring the use of public wastewater to serve their development (Proffered Condition 1). The applicant is encouraged to work with the developer of the Balsamo tract and the intervening Cloverhill Athletic Complex (Case 95PD0128, approved September 20, 1994) to expedite the extension of the public wastewater system.

## ENVIRONMENTAL

### Drainage and Erosion:

The property drains to Otterdale Branch, which divides the property in half, and then via Otterdale Branch to Swift Creek Reservoir. There are currently no, on- or off-site, drainage or erosion problems with none anticipated after development. The property is wooded and should not be timbered without first obtaining a land-disturbance permit from the Environmental Engineering Department and the appropriate devices installed. (Proffered Condition 2)

### Water Quality:

Otterdale Branch is a perennial stream and is therefore subject to a 100 foot conservation area, inside of which uses are very limited. There are two (2) streams that appear to be perennial on both the northern and southern sides of Otterdale Branch. Prior to tentative submittal, a perennality determination should be performed to establish whether these streams are perennial and subject to 100 foot conservation areas.

## PUBLIC FACILITIES

The need for fire, school, library, park and transportation facilities is identified in the Public Facilities Plan, the Thoroughfare Plan and the Capital Improvement Program.

### Fire Service:

The Public Facilities Plan indicates that fire and emergency medical service (EMS) calls are expected to increase forty-four (44) to seventy-eight (78) percent by 2022. Six (6) new fire/rescue stations are recommended for construction by 2022 in the Plan. In addition to the six (6) new stations, the Plan also recommends the expansion of five (5) existing stations.

Based on (328) dwelling units, this request will generate approximately (62) calls for fire and emergency medical service each year.

The applicant has addressed the impact on fire and EMS. (Proffered Condition 4)

The Swift Creek Fire Station, Company 16 currently provides fire protection and emergency medical service. When the property is developed, the number of hydrants, quantity of water needed for fire protection, and access requirements will be evaluated during the plans review process.

#### Schools:

Approximately 174 (Elementary: 75, Middle: 43, High: 56) students will be generated by this request. This site lies in the Grange Hall Elementary School attendance zone: capacity - 851, enrollment – 925; Swift Creek Middle School zone: capacity - 1,027, enrollment - 1,455; and Cosby High School zone: capacity - 1,750, enrollment - 1,212. The enrollment is based on September 29, 2006, and the capacity is as of 2006-2007.

This request will have an impact on the elementary and middle schools. There are currently four (4) trailers at Grange Hall Elementary and seventeen (17) at Swift Creek Middle.

The new Winterpock Elementary School is scheduled to open this fall and the new Tomahawk Middle School is scheduled to open in 2008. The new elementary school will provide relief for Grange Hall and Spring Run Elementary Schools, and the new middle school will provide relief for schools in this area of the county schools. This area of the county continues to experience growth and these schools, will provide much needed space.

This case, combined with other tentative residential developments and zoning cases in the zones, would continue to push these schools over capacity. This case could necessitate some form of relief in the future.

The applicant has addressed the impact of the development on schools with Proffered Condition 4.

#### Libraries:

Consistent with the Board of Supervisors' policy, the impact of development on library services is assessed county-wide. Based on projected population growth, the Chesterfield County Public Facilities Plan (2004) identifies a need for additional library space throughout the County.

Development in this area of the County would most likely impact either the Clover Hill Library, the Midlothian Library or a proposed new branch in the Genito Road area. The 2004 Public Facilities Plan indicates a need for additional library space in this area of the

County. The applicant has offered measures to assist in addressing the impact of this development on library facilities. (Proffered Condition 4)

#### Parks and Recreation:

The Public Facilities Plan identifies the need for three (3) new regional parks, seven (7) community parks, twenty-nine (29) neighborhood parks and five (5) community centers by 2020. In addition, the Public Facilities Plan identifies the need for ten (10) new or expanded special purpose parks to provide water access or preserve and interpret unique recreational, cultural or environmental resources. The Plan identifies shortfalls in trails and recreational historic sites.

The applicant has offered measures to assist in addressing the impact of this proposed development on these parks and recreational facilities. (Proffered Condition 4)

#### Transportation:

The property (164.2 acres) is currently zoned Agricultural (A), and the applicant is requesting rezoning to Residential (R-12) with Conditional Use Planned Development to permit typical single family and/or cluster homes. The applicant has proffered a maximum density of 2.0 units per acre (Proffered Condition 6). Based on single-family trip rates, development could generate approximately 3,100 average daily trips. Based on the most recent data from the Virginia Department of Transportation (VDOT), Genito Road between Otterdale Road and Mount Hermon Road was carrying 2,704 vehicles per day (VPD) in 2006.

The Thoroughfare Plan identifies a limited access facility (“the Powhite Parkway Extension”), with a recommended right-of-way width of 200 feet, extending from its current terminus at Watermill Parkway to Hull Street Road (Route 360). The alignment of this roadway as shown on the current Plan extends through the subject property. The Plan also identifies a proposed interchange on Genito Road for the Powhite Parkway Extension. The Upper Swift Creek Plan suggests that most of this area of the county is appropriate for residential development of two (2) units or less per acre; with a Community Mixed-Use Node around the proposed Powhite Parkway Extension/Genito Road interchange and around the proposed Powhite Parkway Extension/Duval Road interchange; and with a Regional Mixed-Use Node around the proposed Powhite Parkway Extension/Route 360 interchange. The Powhite Parkway Extension is included in the Thoroughfare Plan to improve access to this area of the county, especially the mixed-use nodes, and serve as a major traffic reliever. Without this limited access freeway, area roads, even if improved, may not be able to handle the increased traffic volumes as the county continues to develop.

A draft of an amendment to the Upper Swift Creek Plan is currently under review by the Planning Commission. The draft amendment recommends a shift in the Powhite Parkway Extension alignment and Genito Road interchange. Residents in this area requested the realignment. Either alignment would provide the same transportation function. The



applicant has proffered to dedicate a two hundred (200) foot wide right-of-way for the Powhite Parkway Extension through the southern part of the property as generally shown on Exhibit A (Proffered Condition 7). The alignment on Exhibit A more reflects the current alignment for the Powhite Parkway Extension, than what is represented in the draft amendment to the Upper Swift Creek Plan. The applicant is unwilling to dedicate the right-of-way as shown on the draft amendment to the Upper Swift Creek Plan. According to the proffer, if the Board of Supervisors approves an alternative alignment for the Powhite Parkway Extension that is different to that shown on Exhibit A, the developer would be relieved of the requirement to dedicate such right-of-way, and if the right-of-way had been dedicated, it would be conveyed back to the developer upon his request. Staff is discussing modifications to this proffer with the applicant. In addition, the alignment as shown on Exhibit A is not acceptable. A small section of the right-of-way for the Powhite Parkway Extension was dedicated with development of Summer Lake Subdivision. In addition, plats have been prepared for the dedication of the Powhite Parkway Extension through the Magnolia Green development. The alignment shown on Exhibit A does not conform to Magnolia Green dedication.

The Thoroughfare Plan also identifies Genito Road as a major arterial with a recommended right of way width of ninety (90) feet. The applicant has proffered to dedicate forty-five (45) feet of right of way, measured from the centerline of Genito Road, in accordance with that Plan. (Proffered Condition 8)

Vehicular access to major arterials, such as Genito Road, should be controlled. The property has approximately 1,540 feet of frontage along Genito Road. As previously stated, the Thoroughfare Plan identifies a proposed interchange on Genito Road for the Powhite Parkway Extension. The design and location of vehicular access to the property should anticipate this future interchange. In order to serve area development and to minimize the number of accesses to Genito Road, a residential collector street (i.e., no-lot frontage street) should be provided from Genito Road generally located at the western property line, and extending through the property to the adjacent property to the west. The applicant has not proffered any condition that would control direct vehicular access from the property to Genito Road.

The traffic impact of this development must be addressed. The applicant has proffered the customary road improvements for this proposed development, such as: 1) construct additional pavement along Genito Road to provide left and right turn lanes, based on Transportation Department standards; and 2) widen/improve the south side of Genito Road to an eleven (11) foot wide travel lane with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, and overlay with asphalt the full width of the road for the entire property frontage (Proffered Condition 9). Based on Transportation Department standards, both left and right turn lanes are anticipated to be warranted along Genito Road.

The developer may need to acquire “off-site” right-of-way along the south side of Genito Road east and/or west of the property for the turn lane improvements. However, according to Proffered Condition 10, if the developer needs off-site right-of-way and is

unable to acquire it, the developer may request the county to acquire the right-of-way as a public road improvement. All costs associated with the acquisition will be borne by the developer. If the county chooses not to assist with the right-of-way acquisition, the developer will not be obligated to acquire the off-site right-of-way, and will only be obligated to construct road improvements within available right-of-way. (Proffered Condition 9)

Most area roads in this part of the county have little or no shoulders, fixed objects (trees) adjacent to the edge of the pavement and poor vertical and horizontal alignments. Area roads need to be improved to address safety and accommodate the increase in traffic generated by this development. Genito Road will be directly impacted by development of this property. Sections of Genito Road have approximately twenty (20) foot wide pavement with no shoulders. The capacity of that section of Genito Road is acceptable (Level of Service C) for the low volume of traffic it carries (2,704 VPD).

The applicant has proffered to provide transportation contributions, in an amount consistent with the Board of Supervisors' Cash Proffer Policy, towards mitigating the traffic impact of this development (Proffered Condition 4). Proffered Condition 4 would also allow, upon mutual agreement of the Transportation Department and the developer, the developer to provide road improvements equal to the cost of such payment(s). As development continues in this part of the county, traffic volumes on area roads will substantially increase. Cash proffers alone will not cover the cost of the improvements needed to accommodate the traffic increases. No road improvement projects in this part of the county are included in the Six-Year Improvement Plan.

The applicant has not committed to limit access along Genito Road or to revise Exhibit A for dedication of the right-of-way for the Powhite Parkway Extension. In addition, there are minor modifications needed to other proffered conditions. Staff continues to discuss modification to and/or additional proffers with the applicant. Unless some agreement can be reached prior to the public hearing, the Transportation Department cannot support this request.

Financial Impact on Capital Facilities:

		PER UNIT
Potential Number of New Dwelling Units	328*	1.00
Population Increase	892.16	2.72
Number of New Students		
Elementary	76.42	0.23
Middle	42.64	0.13
High	55.43	0.17
TOTAL	174.50	0.53
Net Cost for Schools	1,754,144	5,348
Net Cost for Parks	198,112	604
Net Cost for Libraries	114,472	349
Net Cost for Fire Stations	132,840	405
Average Net Cost for Roads	2,932,976	8,942
TOTAL NET COST	5,132,544	15,648

\* Based on a proffered maximum yield of two (2) dwelling units per acre (Proffered Condition 6). The actual number of dwelling units and corresponding impact may vary.

As noted, this proposed development will have an impact on capital facilities. Staff has calculated the fiscal impact of every new dwelling unit on schools, roads, parks, libraries and fire stations at \$15,648 per unit. The applicant has been advised that a maximum proffer of \$15,600 per unit would defray the cost of the capital facilities necessitated by this proposed development. The applicant has been further advised that a maximum proffer of \$10,269 per unit would defray the cost of the capital facilities necessitated by development of the age-restricted portion of the development, as it will have no increased impact on school facilities. Consistent with the Board of Supervisors' policy, and proffers accepted from other applicants, the applicant has offered cash to assist in defraying the cost of this proposed zoning on such capital facilities. (Proffered Condition 4)

Note that circumstances relevant to this case, as presented by the applicant, have been reviewed and it has been determined that it is appropriate to accept the maximum cash proffer in this case.

## LAND USE

### Comprehensive Plan:

Lies within the boundaries of the Upper Swift Creek Plan which suggests the property is appropriate for single family residential use of 2.0 units per acre or less. The Plan is currently being revised. The draft Plan, as recommended by the Planning Department, is consistent with the aforementioned recommendation of the current Plan for this property.

### Area Development Trends:

The majority of the surrounding properties are zoned Agricultural (A) and are occupied by agricultural/forestral uses and single family residential uses on large acreage parcels. A public park is located on property to the west. A portion of the property to the east is zoned Residential (R-12) and is occupied by single family residential use within Summer Lake Subdivision or is vacant.

### Site Design:

The 164.2 acre tract proposed for R-12 zoning may be developed for cluster homes and/or single family residential uses, all of which are discussed in further detail herein. If the property is developed for more than one (1) dwelling type, the Textual Statement requires the submission of a conceptual plan to either the Planning Commission or Planning Department for approval. At the time of review of a conceptual plan, conditions may be imposed to insure land use compatibility and transition. (Textual Statement 1)

### Density:

A maximum of 2.0 dwelling units per acre has been proffered, yielding an overall maximum of 328 dwelling units. (Proffered Condition 6)

### Common Areas:

Where common areas are to be provided within the development, the Textual Statement requires that the ownership and maintenance responsibilities be established. (Textual Statement 2)

### Buffers:

Buffers required by the Subdivision Ordinance will be located within common open space. (Textual Statement 7)

### Dwelling Types:

As previously noted, single family dwellings and cluster homes are proposed. These uses will be developed as follows:

#### Cluster Homes:

Cluster homes are proposed on individual lots having a minimum of 6,000 square feet. The density for any cluster development would be limited to six (6) units per acre. Other standards include setbacks, provision of sidewalks, buffers, focal point, street trees and paved driveways. (Textual Statement 3 through 11)

The requirements offered for cluster projects are consistent with those typically required by the Commission and Board on similar projects recently approved.

#### Single Family Residential:

Single family residential uses would be required to be developed in accordance with Ordinance requirements for Residential (R-12) Districts. The minimum lot size would be 12,000 square feet. Conditions address minimum dwelling sizes. (Textual Statement 12)

#### Recreation Areas and Open Space:

The Textual Statement provides that, at the election of the developer, active and passive recreational areas may be provided throughout the development and provides restrictions to minimize the impact of these recreational uses on surrounding residential uses. (Textual Statement 13)

Within each cluster home development, a minimum of .75 acres of open space would be located as a focal point (Textual Statement 9). Also, within the cluster home developments, where lot areas are reduced below the minimum 12,000 square feet, the Ordinance will require that comparable amount of square footage be placed in open space.

#### Age Restriction:

Proffered Conditions 4.b. and 5 provide for the option of limiting occupancy of some or all of the proposed dwelling units to “housing for older persons” as defined in the Virginia Fair Housing Law. While during the initial marketing of the project this restriction may be clear to prospective occupants, there is a risk that long-term, dwelling units may be sold or rented to individuals that do not meet this age-restriction. Given staff’s inability to pro-actively enforce this condition prior to the purchase and occupancy of dwelling units, staff recommends that these proffers not be accepted.

### CONCLUSIONS

While the proposed zoning and land uses conform to the Upper Swift Creek Plan which suggests the property is appropriate for single family residential use of 2.0 units per acre or less the application fails to address the transportation impacts. The proffered conditions adequately address the impacts of this development on necessary capital facilities, as outlined in the Zoning

Ordinance and Comprehensive Plan. Specifically, the needs for roads, schools, parks, libraries and fire stations is identified in the Public Facilities Plan, the Thoroughfare Plan and the Capital Improvement Program, and the impact of this development is discussed herein. The proffered conditions mitigate the impact on capital facilities, thereby insuring adequate service levels are maintained and protecting the health, safety and welfare of County citizens.

It should be noted that proffered conditions provide for the ability to age restrict occupants within the development that may result in enforcement issues. (Proffered Conditions 4.b. and 5)

Given these considerations, approval of this request is recommended subject to addressing the transportation impacts.

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### CASE HISTORY

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Planning Commission Meeting (3/20/07):

At the request of the applicant, the Commission deferred this case to April 17, 2007.

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Staff (4/3/07):

The applicant was also advised that a \$500.00 deferral fee was due.

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Applicant (4/5/07):

Revised and additional proffered conditions were submitted.

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Applicant (4/11/07):

The deferral fee was paid.

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Planning Commission Meeting (4/17/07):

On their own motion, the Commission deferred this case to their June 19, 2007, meeting. The applicant objected to a deferral.

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Staff (4/18/07):

The applicant was advised in writing that any new or revised information should be submitted no later than April 23, 2007, for consideration at the Commission's July 19, 2007, public hearing.

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Staff (5/14/07):

To date, no new or revised information has been received.

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## TEXTUAL STATEMENT

February 12, 2007

This is a request to rezone 164.2 acres of the Property (Tax ID 705-687-3536) under consideration to R-12 with a Conditional Use Planned Development (CUPD) that will permit development of a community including single family residences and/or cluster homes. Except as qualified herein, uses permitted in the Residential (R- 12) District and active and passive recreation uses shall be permitted throughout the property. In addition, the following uses as more fully defined below shall also be permitted.

### APPLICABLE TO ALL

1. Mixing of Uses. Within the Property there shall be no “mixing” of uses (e.g., if the Property is to be developed for Residential (R-12) uses, all of the Property shall be developed for Residential (R-12) uses). Provided, however, the mixing of uses may be permitted if a conceptual plan is submitted for review and approval and the conceptual plan addresses land use transitions and compatibility between uses within the Property itself as well as with adjacent Properties. Consideration of land use compatibility and transitions may include, but not necessarily be limited to, the exact location of uses, buffers, and site design. Such conceptual plan shall be approved by either the Planning Commission or the Planning Department, at the election of the developer, and such review shall be subject to appeal in accordance with provisions of the Zoning Ordinance for site plan approval.
2. Common Areas. Common areas and ownership of property shall be regulated by Section 19-559 of the County Zoning Ordinance.

### APPLICABLE TO CLUSTER HOMES

Cluster Homes – Single family detached cluster homes shall meet the following requirements:

3. Lot Size. The minimum lot size shall be as follows: a fifty (50) foot minimum lot width; and a six thousand (6,000) square foot minimum lot area.
4. Density. The overall density within each tract or part of a tract containing cluster homes shall not exceed six (6) units per gross acre.
5. Front, Corner, Side and Rear Yard. For principal structures, front and rear yards shall have a minimum depth of zero (0) feet, and a minimum depth of ten (10) feet for corner/side yards. Accessory structures shall be setback such that the structure shall not be closer to the front than the front plane of the dwelling.
6. Sidewalks. Sidewalks shall be provided that facilitate pedestrian access within the Development, to any recreational areas serving the development, and to the overall project. The exact location and design of the sidewalks shall be determined by the County

at the time of tentative subdivision review; provided, however, that, unless otherwise approved by the Planning Commission at time of subdivision review upon a determination that an alternative system will accomplish the spirit and intent of this requirement, sidewalks shall be installed on those portions of both sides of all roads that have cluster homes fronting on the road.

7. Buffers. Buffers required by the Subdivision Ordinance along roads shall be located within recorded open space.
8. Paved Driveways. All dwelling units shall have paved driveways. The exact treatment shall be approved at the time of tentative subdivision plan review.
9. Focal Point. A minimum of 0.75 acres of open space shall be located and positioned to provide a “focal point” as one enters each cluster home development. Part of this area shall be “hardscaped” and have benches and other amenities that accommodate and facilitate outdoor gatherings. This area shall be developed concurrently with the development of the first phase of each cluster home development, and its exact design and location shall be approved at the time of tentative subdivision review.
10. Garages. Any front-loaded garages shall be located no closer to the street than the front façade of the dwelling unit.
11. Street Trees. Street trees shall be planted or retained along each side of roads and driveways except for Individual Driveways. The exact spacing, species and size shall be approved at the time of tentative subdivision plan review.

#### APPLICABLE TO RESIDENTIAL R-12

All dwellings other than Cluster Homes shall meet the requirements of the Residential (R-12) District as well as the following requirements:

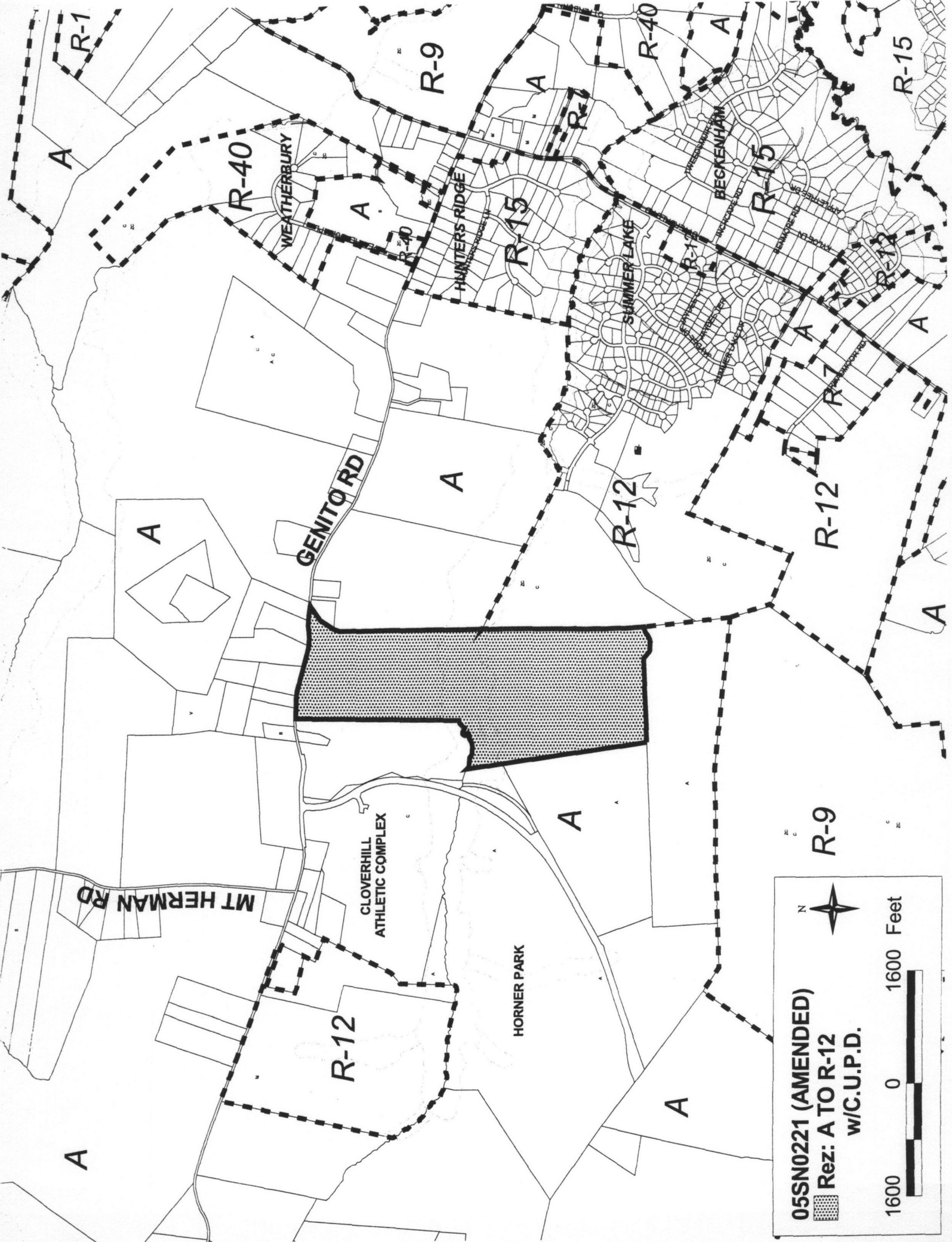
12. Minimum Square Footage for Single Family Dwellings. With the exception of Cluster Homes, the minimum gross floor area for single family detached homes shall be as follows:

1 story	1,700 square feet;
More than 1 story	2,000 square feet;
13. Recreation Areas. At the election of the developer, active and passive recreation areas may be provided. Such recreation areas shall be subject to the following requirements:
  - a. With the exception of playground areas which accommodate swings, jungle gyms, or similar facilities and tennis courts, all outdoor play fields, swimming pools and similar active recreational areas shall be located a minimum of one hundred (100) feet from adjacent properties zoned or designated on the County’s Comprehensive

Plan for residential use, a minimum of one hundred (100) feet from any existing or proposed single family residential lot line, and a minimum of fifty (50) feet from any existing or proposed road.

- b. Within the one hundred (100) and fifty (50) foot setbacks, a fifty (50) foot buffer shall be provided along the perimeter of all active recreational facilities except where adjacent to any existing or proposed road. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
- c. Any playground areas (i.e. areas accommodating swings, jungle gyms or similar such facilities) and tennis courts shall be located a minimum of forty (40) feet from all property lines. A forty (40) foot buffer shall be provided along the perimeter of these recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
- d. Nothing within this condition shall prevent development of indoor facilities and/or parking within the one hundred (100) foot setback.
- e. There shall be no outside public address system or speakers.
- f. The maximum height for light posts shall not exceed twenty (20) feet.
- g. The location of all active recreational uses shall be identified in conjunction with the submittal of the first tentative subdivision plan.
- h. In conjunction with the recordation of any lot adjacent to active recreational area(s), such area(s) shall be identified on the record plat along with the proposed recreational uses and required conditions.

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05SN0221 (AMENDED)

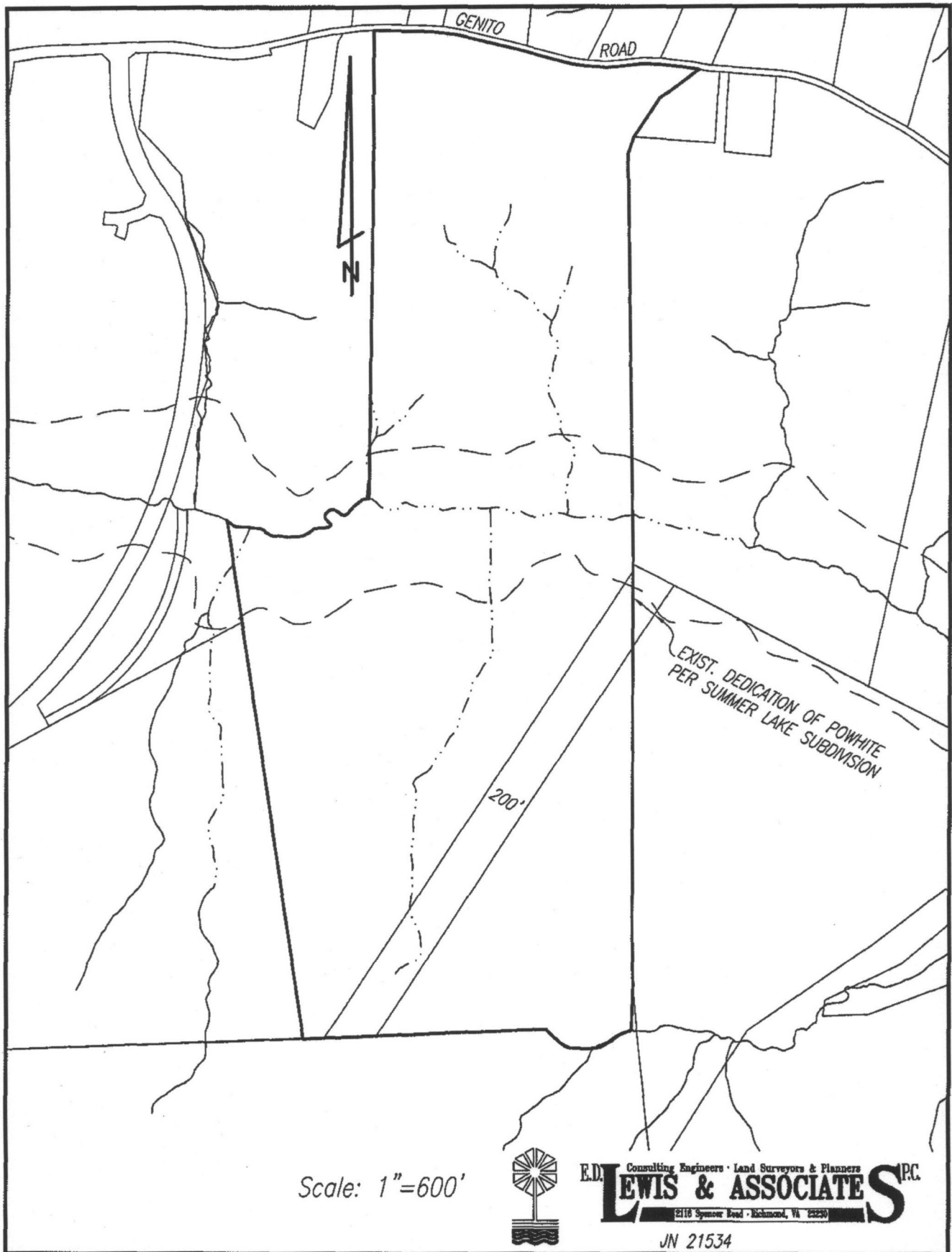
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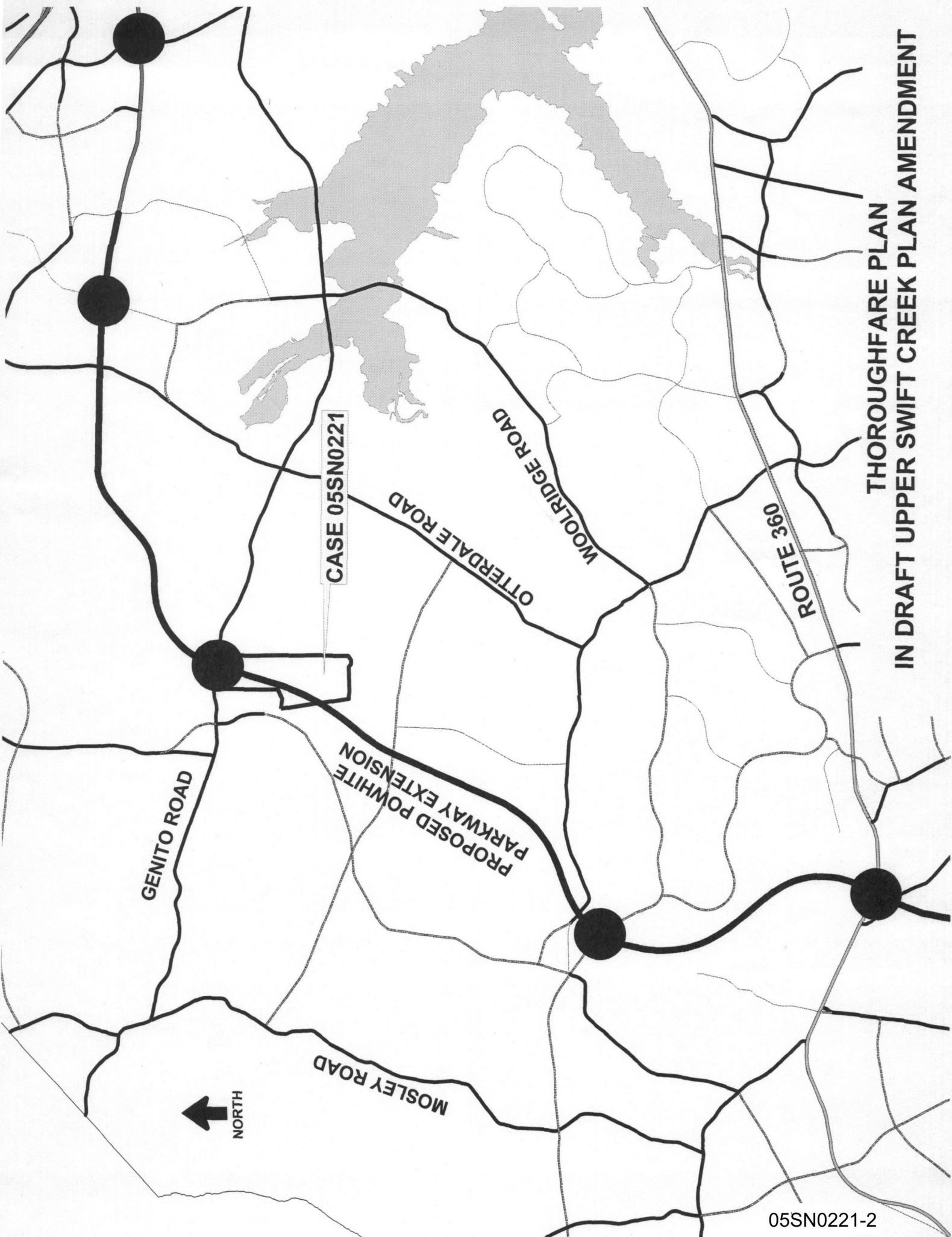
Exhibit A

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THOROUGHFARE PLAN  
IN DRAFT UPPER SWIFT CREEK PLAN AMENDMENT



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**PROPOSED ALIGNMENT  
POWHITE EXTENSION IN  
DRAFT USC PLAN AMENDMENT**

**CURRENT ALIGNMENT  
POWHITE EXTENSION**

**GENITO RD**

**SUMMER LAKE SUBDIVISION**

**MAGNOLIA GREEN DEVELOPMENT**

**CASE 05SN0221**